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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,726	11/12/2003	Peter Streuer	054821-0877	7254
26371	7590	09/23/2005	EXAMINER	
FOLEY & LARDNER				LEWIS, BEN
777 EAST WISCONSIN AVENUE				
SUITE 3800				
MILWAUKEE, WI 53202-5308				
				ART UNIT
				PAPER NUMBER
				1745

DATE MAILED: 09/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/706,726	STREUER, PETER
	Examiner Ben Lewis	Art Unit 1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 and 9-11 is/are rejected.
- 7) Claim(s) 4-8 and 12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 November 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/12/03</u> . | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 and 9-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Thomas et al (U.S. Patent No. 6,277,517 B1).

With respect to claims 1, 2 and 11, Thomas et al teach that the present invention provides a battery of the type having electrolyte therein, comprising a case defining at least one electrolyte containing cell, and a primary cover bonded to the case. The primary cover has a barrel extending into the electrolyte cell. A secondary cover bonded to the primary cover top, and an aperture concentric with the primary cover barrel. A baffling plug is disposed in the secondary cover aperture and extends into the barrel (Col 2 lines 60-67); (Col 3 lines 1-4). Thomas et al further teach that in FIGS. 3 and 6, baffling plug 90 is pressed into the fill hole 80 formed in the secondary cover 40 to inhibit the escape of the electrolyte from the cells. Each baffling plug 90 has a lid 94 with a bottom 96, a pair of tubular splash guards 42, 43 extending from the lid bottom 96, and a retaining member 88 for retaining the plug 90 in the fill hole 80. The splash guards include a coaxially arranged outer tubular splash guard 42 and inner tubular splash guard 43. When the plug 90 is pressed into the fill hole 80 the splash guards 42, 43 extend into the barrels 22 of the primary cover 20. In the preferred embodiment, the

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retaining member **88** is formed as an integral part of the outer splash guard **42** (Col 7 lines 6-18). The outer tubular splash guards **42a-f** have slots **44a-f** formed through their surfaces. Explosive gases evolved in the cells escape through these slots **44a-f**. The preferred embodiment has four slots for each outer tubular splash guard **42**. The slots are formed symmetrically and extend from the lower tip toward the retaining member **88** (Col 7 lines 44-50). Each inner tubular splash guard **43** is aligned coaxially with a respective outer tubular splash guard **42** and defines an inner chamber **45** at its center (Col 7 lines 51-57).

With respect to claim 3, Thomas et al teach that each inner tubular splash guard **43** is aligned coaxially with a respective outer tubular splash guard **42** and defines an inner chamber **45** at its center. The only opening into the inner chamber **45** is through its bottom opening, so any evolved gases and electrolyte driven into the inner chamber **45** are returned to the cells through the bottom opening of the inner chamber **45** (Col 7 lines 51-57).

With respect to claim 9, Thomas et al teach that the tubular splash guards **42, 43** operate to knock electrolytes back into the cells when the battery is being vibrated (Col 7 lines 58-67).

With respect to claim 10, Thomas et al teach that each plug **90a-f** is retained in the respective fill hole **80a-f** by the respective retaining member **88a-f**. In the preferred

embodiment, the retaining member **88** is a wedge-shaped flange surrounding the annular base **92** having an angled surface **106** extending from the base bottom **96** outwardly toward the base top **94**, and an orthogonal surface **88** extending radially away from the base **88**. Forcing the plug **90** into the fill hole **80** compresses the retaining member **88** against the retention member inner wall **84** to create an interference press fit which seals the fill hole **80** and retains the plug **90** therein.

Allowable Subject Matter

3. Claims 4-8 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 4-7 and 12 would be allowable because the prior art does not disclose or suggest a rechargeable battery comprising at least one of a state of charge indicator and an acid level indicator attached to the upper part of the sealing plug and passing through the lower part of the sealing plug cavity. Claim 8 would be allowable because the prior art does not disclose or suggest having a rechargeable battery wherein the sealing plug is formed from an electrically conductive plastic.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicants disclosure. Richter et al. (U.S. Patent No. 6,733,921 B2) teach a rechargeable electric battery including a cover for the box which has closure plugs and/or acid state indicators fitted in a gas-tight manner to openings therein, wherein at least a portion of an inner surface of the battery is electrically conductive.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ben Lewis whose telephone number is 571-272-6481. The examiner can normally be reached on 8:30am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ben Lewis



Patent Examiner
Art Unit 1745



DAH-WEI YUAN
PRIMARY EXAMINER